

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDWARD R. WHITTINGTON,) CASE NO. C05-1899-RSL-MAT
Plaintiff,)
v.) ORDER DISMISSING § 1983 ACTION
NORM MALENG, et al.,)
Defendants.)

The Court, having reviewed the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the balance of the record, does hereby ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) The complaint and this § 1983 action are DISMISSED for failure to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).
- (3) This dismissal shall count as a dismissal under 28 U.S.C. § 1915(g).

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01 (4) The Clerk is directed to send copies of this Order to plaintiff and to Judge Theiler.

02 DATED this 23rd day of January, 2006.

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05 Robert S. Lasnik
06 United States District Judge
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